## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION 5:21-cv-00100-WCM

NEIL EDWIN BUSH,	)
Plaintiff,	) ) )
v.	ORDER
COMMISSIONER OF SOCIAL SECURITY,	) ) )
Defendant.	) ) )

This matter is before the Court on the following:

- 1. Plaintiff's Motion for Summary Judgment (Doc. 11); and
- 2. The Commissioner's "Motion for Reversal and Remand Pursuant to Sentence Four of 42 U.S.C. § 405(g)" (the "Motion to Remand," Doc. 13).1

Under Sentence Four of 42 U.S.C. § 405(g), the Court has the authority "to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner, with or without remanding the cause for a rehearing." See Shalala v. Schaefer, 509 U.S. 292, 299, 113 S.Ct. 2625, 2630-31, 125 L.Ed.2d 239 (1993). Remand for

<sup>1</sup> The parties have consented for a United States Magistrate Judge to conduct any and all proceedings in this case, including the entry of a final judgment. Doc. 9.

further proceedings is the proper action in any case that requires further fact finding. See Meyer v. Astrue, 662 F.3d 700, 707 (4th Cir. 2011) ("Assessing the probative value of competing evidence is quintessentially the role of the fact finder. We cannot undertake it in the first instance. Therefore, we must remand the case for further fact finding").

Here, the Commissioner asks this Court to "enter a judgment reversing her decision with remand of the cause for further administrative proceedings" and represents that Plaintiff's counsel consents to the motion. Doc. 13 at 1.

## IT IS THEREFORE ORDERED THAT:

- The Motion for Reversal and Remand Pursuant to Sentence Four of 42 U.S.C. § 405(g) (Doc. 13) is GRANTED, the Commissioner's decision is REVERSED, and this matter is REMANDED pursuant to Sentence Four of 42 U.S.C. § 405(g).
- Plaintiff's Motion for Summary Judgment (Doc. 11) is **DENIED AS** MOOT.
- 3. The Clerk of Court is respectfully directed to enter a separate judgment of remand, thereby closing the case.

Signed: March 30, 2022

W. Carleton Metcalf

United States Magistrate Judge